

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MONTELLE LEE FAIRFAX,	)	
	)	Civil Action No. 10 - 1684
Petitioner,	)	
	)	Chief District Judge Gary L. Lancaster
v.	)	
	)	
MS. D. SAUERS; THE DISTRICT	)	
ATTORNEY OF THE COUNTY OF	)	
FAYETTE and THE ATTORNEY	)	
GENERAL OF PENNSYLVANIA,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

On December 16, 2010, the above captioned case was initiated by the filing of a Motion for Leave to Proceed *In Forma Pauperis* accompanied by a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The magistrate judge filed a Report and Recommendation on August 29, 2011 (ECF No. 13) recommending that the Petition for Writ of Habeas Corpus be dismissed as untimely and that a certificate of appealability be denied. On October 7, 2011, Petitioner filed Objections to the Report and Recommendation (ECF No. 14). Petitioner's objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

**AND NOW**, this 10<sup>th</sup> day of November, 2011:

**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus is **DENIED**.

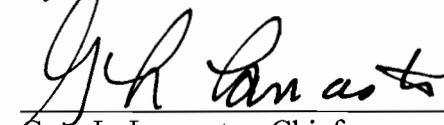
**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 13) is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

  
\_\_\_\_\_  
Gary L. Lancaster, Chief  
United States District Judge

cc: Montelle Lee Fairfax  
GK - 8943  
S.C.I. Forest  
P.O. Box 945  
Marienville, PA, 16239